

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

LAURA PONTONES, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

SAN JOSE RESTAURANT,
INCORPORATED, et. al;

Defendants.

Case No. 5:18-cv-219-D

**SUPPLEMENTAL DECLARATION OF GILDA ADRIANA HERNANDEZ IN
SUPPORT OF PLAINTIFF’S UNOPPOSED MOTION FOR ATTORNEYS’ FEES
AND REIMBURSEMENT OF EXPENSES AND PLAINTIFF’S MOTION FOR
FINAL APPROVAL OF SETTLEMENT AGREEMENT**

I, Gilda Adriana Hernandez, declare as follows:

1. I am an attorney in good standing, duly licensed and admitted to the North Carolina Bar. I am an attorney with the Law Offices of Gilda A. Hernandez, PLLC (“GAH”). The testimony set forth in this Declaration is based on first-hand knowledge, about which I could and would testify competently in open Court if called upon to do so, and on records contemporaneously generated and kept by my Firm in the ordinary course of its law practice.

2. I provide this Declaration for the purpose of setting forth the additional work completed by my firm in this action following our submission of March 25, 2022.

3. My prior declaration included work through March 25, 2022. However, such time did not include the time spent reviewing all motions, briefs, and declarations for any last-minute edits before having our firm file such preliminary approval documents. More significantly, that filing was followed by preparing all final approval settlement documents for and participating in

a Fairness and Final Approval Hearing with this Court, and preparing to address any potential issues, including, but not limited to, attorney's fees, the distinctions between the FLSA and the NCWHA, the Notice and forms, and information relating to Participating Rule 23 Settlement Class Members and FLSA Collective Members (collectively "Class Members").

4. Following the filing of Plaintiffs' brief in support of their motion for preliminary approval, GAH also had discussions with Settlement Administrator, Angeion, regarding the claim form and notice.

5. GAH took the lead in drafting the final approval documents, a supporting declaration, and ensuring Angeion, also provided a declaration relating to its work in administering the Settlement, mailing the Notice, and addressing any issues relating to Class Members' damages and distribution of the same.

6. Moreover, during the notice period, GAH received a number of phone calls and talked to many of the Class Members regarding the settlement.¹

7. Additionally, on June 30, 2022, approximately two (2) weeks before the July 15, 2022, Fairness Hearing was originally scheduled to take place, Fasika Hailemichael, Project Manager for Angeion, informed GAH that Angeion inadvertently failed to engage in the skip tracing protocol, as directed by the Court. That same day, Angeion reached out to Class Counsel to advise of Angeion's failure, with the proposal to rectify this issue immediately. *See* Dkt. 239-1, at ¶ 10. Because Class Counsel was in California for an employment lawyers' conference, Class Counsel needed time to process and determine the best course of action.

8. On July 5, 2022, Class Counsel reached out to Defendants' counsel and copied Angeion regarding Angeion's inadvertent failure to conduct skip tracing measures to the addition

¹ Many individuals have already begun contacting GAH with information about the upcoming fairness, repeatedly thanking our firm for our efforts.

47 individuals. While Defendants' counsel did not object to resending notice, the Parties could not agree on whether it made sense to delay the July 15, 2022, Fairness Hearing. After advising the Court of the same, the Court directed the Parties to resend the notice to those additional forty-seven individuals immediately and rescheduled the Fairness Hearing to August 19, 2022.

9. On July 12, 2022, Angeion resent notices to those 47 individuals for whom skip tracing revealed new addresses with a deadline of thirty (30) days to respond.

10. Regarding estimated settlement awards payments for authorized claimants, should the Court grant final approval, the highest, claimed settlement award is calculated to be \$73,992.32. The average estimated settlement award payment for authorized claimants is \$4,775.06.

11. The additional hours and lodestar record since my prior March 25, 2022, declaration are:

| Timekeeper | Position | Rate* | Hours | Lodestar |
|---------------------|-----------------|--------------|--------------|--------------------|
| Hernandez, Gilda A. | Attorney | \$750 | 35.5 | \$26,625.00 |
| Smith, Charlotte | Attorney | \$325 | 0.7 | \$227.50 |
| Wright, Matthew | Attorney | \$275 | 19.9 | \$5,472.50 |
| Kreuz, Rachael | Sr. Paralegal | \$190 | 1.9 | \$351.50 |
| Romero, Michelle | Paralegal | \$185 | 33.2 | \$6,142.00 |
| Green, Georgia | Paralegal | \$90 | 11.4 | \$1,021.50 |
| Total | | | 102.6 | \$39,840.00 |

12. When added to the prior reported lodestar, the updated totals are 2,116.6 hours, with a lodestar value of \$738,260.08.

13. Moreover, I anticipate GAH will receive a number of calls following the fairness

hearing with individuals requesting an update regarding the settlement's approval status and anticipated timelines for payments should the Court grant final approval.

14. As to expenses, the firm has incurred \$164.94 in additional expenses since the Preliminary Approval Hearing. Currently, the total for expenses is \$14,573.33. These expenses incurred were reasonable and necessary under the circumstances of this litigation. These books records are prepared from invoices, expenses vouchers, and other source materials and are an accurate record of the expenses incurred. The underlying invoices and receipts are available for inspection if the Court requests.

15. Class counsel also anticipates incurring additional miscellaneous expenses relating to any discussions with client(s) to discuss the fairness hearing, including potentially any in-person discussions with Class Members and opt-in plaintiffs located in the Eastern District of North Carolina to discuss settlement payments before and after distribution of such payments, and any other miscellaneous expenses not anticipated. As such, Class Counsel requests a total of \$20,000.00 in litigation expenses, which includes a conservative estimate of expenses to be accrued during the next three years over which Defendants will continue to make regular payments towards the gross settlement amount.

I declare under penalty of perjury, under 28 U.S.C. § 1746, under the laws of North Carolina that the foregoing is true and correct to the best of my knowledge.

Executed this 15 August 2022.

/s/ Gilda Adriana Hernandez
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CERTIFICATION OF SERVICE

I hereby certify that on August 15, 2022, I filed the foregoing true and accurate copy of **SUPPLEMENTAL DECLARATION OF GILDA ADRIANA HERNANDEZ IN SUPPORT OF PLAINTIFF'S UNOPPOSED MOTION OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES AND PLAINTIFF'S MOTION FOR FINAL APPROVAL OF SETTLEMENT AGREEMENT** with the Court using the CM/ECF system, thereby electronically served the document to the following:

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